



U.S. Department
of Transportation
**Federal Aviation
Administration**

Route Slip

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GILLESPIE FIELD

Airport Director	Peter Drinkwater, San Diego County

Date: August 29, 2003	Information: XX	Action:	Reply:
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Subject: Aviation Lease – Airports: Gillespie Field

We examined the lease agreement between the San Diego County and La Jolla Investment Company. Based on our review, we developed several recommendations that may help the County achieve greater control with regard to tenant uses of airport facilities. Our recommendations are associated with the lease document to which they relate.

Gillespie Field Aviation Areas Development Standards

2. Land Use

b. Commercial Activities

Recommendation: The number of permitted aeronautical activities should be limited to only those activities that the tenant/operator actually applies to perform. The permitted activities should also be limited to only those activities that the tenant/operator is qualified to perform by virtue of professional preparation, adequate leasehold facilities, and financial capability. Additional activities may be added to the lease agreement at a later date when the tenant/operator demonstrates the qualifications to perform the additional activity(ies) and meets the airport's minimum standards.

9. Height Limit

Recommendation: There should be a provision added to the lease that stipulates that all construction must comply with Title 14 CFR Part 77, *Objects Affecting Navigable Airspace*, and receive FAA approval before construction begins.

19. Other Regulations

Recommendation: There should be references to safety and security requirements with which tenants and subtenants must comply. For example,

- Runway safety
- Pedestrian and vehicle deviation avoidance
- Driver rules for use on the airport operations areas
- Access restrictions in the airport's secured areas

Permitted Uses of the Premises

a. The fixed-base operation may include any or all of the following uses:

Recommendation: Commercial aeronautical activities should be limited to only those activities that the tenant/operator actually applies to perform. The permitted activities should also be limited to only those activities that the tenant/operator is qualified to perform by virtue of professional preparation, adequate leasehold facilities, and financial capability. Additional activities may be added to the lease agreement at a later date when the tenant/operator demonstrates the qualifications to perform the additional activity(ies) and meets the airports minimum standards.

e. County may allow non-aviation uses...

Recommendation: Non-aviation uses should not be allowed in the airport's aviation-use areas. Any reference to permitted non-aviation uses should be omitted from the lease. It would be better to state that non-aviation uses are not authorized and the use of leasehold premises for non-aeronautical activities, whether permitted or not permitted, will subject the tenant/operator to a rent surcharge that will be based on the County's fair market rental rate determination.

Note: Once non-aeronautical activities are introduced in obligated aviation-use areas, per FAA regulation, fair market value rents must be assessed.

Fallbrook Community Airpark Aviation Areas Development Standards

2. Land Uses

e. Residential Use

Recommendation: Residential use should not be permitted and a provision for residential use should not be included as a standard provision in lease agreements. The need for caretaker facilities on airports has long passed. The presence of caretaker residences on public airports is a rarity today. Any consideration of a residential facility should be based on a clear need of the lease applicant and one that can be justified based on airport specific circumstances. If a lease permits residential use, without strict oversight, it can get out of control and lead to airport safety, security, and revenue use problems.

We suggest that you consider these recommendations as possible revisions to your airport lease agreements.

From: Tony Garcia

Reply to: AWP-620.1

GILLESPIE FIELD AVIATION AREAS DEVELOPMENT STANDARDS

1. **APPLICABILITY.** The Development Standards contained herein shall apply to Aviation Areas designated by the Gillespie Field Master Plan. Where used herein, the term "on-site" means within the lease boundary and "off-site" means outside of the lease boundary.

2. **LAND USES.** The following uses are permitted subject to compliance with Development Standards and the Performance Standards specified for the Gillespie Field Aviation Areas.

Permitted Use
Should be
more specific
& not open-
ended.

a. Structures and Facilities. Airport structures and facilities that are necessary to the operation of the airport and to the control of air traffic in relation thereto, include, but are not necessarily limited to, the following:

- (1) Taxiways and parking aprons, including lighting.
- (2) Aircraft hangars, tie-down areas and maintenance buildings.
- (3) Air traffic control towers and facilities.
- (4) Navigational aid equipment and structures.
- (5) Airport administration buildings, which may also include airport passenger terminal facilities.
- (6) Airport passenger terminal buildings and airtels, and facilities which may include as uses incidental thereto, eating and drinking establishments; consumer service establishments, including automobile rentals, retail shops normally operated for the convenience of the users of terminal facilities.
- (7) Heliports
- (8) Aviation fuel farms
- (9) Automobile parking lots and structures
- (10) Buildings for housing operations and equipment necessary to the maintenance, security and safety of the airport.

b. Commercial Activities. Commercial aviation activities include, but are not necessarily limited to, the following:

(1) Aviation flight and ground schools, including pilot and student equipment sales.

(2) Aircraft sales, including radio and navigational equipment, parts, supplies and accessory equipment.

(3) Aircraft hangar and tie-down rentals.

(4) Aircraft leasing, rental and charter.

(5) Airframe, engine, radio, navigational and accessory equipment repair, maintenance and modification.

(6) Aircraft ground support equipment repair, maintenance and modification.

(7) Aircraft cleaning services.

(8) Aircraft painting.

(9) Aviation fuel facilities.

(10) Aircraft and engine mechanic schools.

(11) Airlines, scheduled and non-scheduled.

(12) Air taxi and air ambulance services.

COMMERCIAL ACTIVITIES SHOULD BE
LIMITED TO ONLY THOSE WHICH THE
LESSEE ACTUALLY WANTS TO PERFORM
AND FOR WHICH THE OPERATOR IS
QUALIFIED TO PERFORM.

Residential
Use
should be
omitted

- (13) Air freight terminals and trans-shipment facilities.
- (14) Aerial crop dusting and spraying enterprises.
- (15) Aerial fire fighting.
- (16) Aerial photography and surveying.
- (17) Parachute rigging sales and service.

c. Other Uses. Office, retail, and service uses related or ancillary to uses permitted under subclauses a and b above; or which are normally operated for the convenience of the employees of such other uses.

d. Signs. Identification, directional and safety signs.

Should be
omitted

e. Residential Use. On the same site with a permitted aviation area use, a single family dwelling occupied exclusively by a caretaker or superintendent of such use and his family may be permitted upon approval of the Airports Director.

RESIDENTIAL USE SHOULD BE OMITTED FROM BASE ALTOGETHER.

3. **LAYOUT OF AVIATION AREAS.** The overall layout of aviation areas will be designed so that utility extension, street, runway, taxiway, and other airport facility construction and commercial aviation site improvements can be accomplished in progressive stages consistent with the requirement for expansion of airport services.

4. **DESIGN CRITERIA AND DIMENSIONAL STANDARDS.**

a. Federal Aviation Administration Standards. The design criteria and dimensional standards to be applied to specific aviation area sites will be based upon the recommended FAA standards in accordance with the conditions and policies established by the FAA Advisory Circulars.

b. Critical Aircraft. A "critical aircraft", defined as the largest aircraft to be accommodated, will be designated for all fixed base operation lease sites. The critical aircraft size, weight and operating characteristics will be used to determine the applicable FAA design standards and dimensional requirements to be applied to these portions of the site where the critical aircraft will be accommodated.

5. **STREET SYSTEM.**

a. Curbs and Gutters. Portland cement concrete type "G" with 24" width and 6" curb face.

b. Sidewalks. Sidewalks will consist of Portland cement concrete, five feet wide, three and one-half inches thick located adjacent to the curb and will be installed unless waived by the airports Director.

c. Driveway Aprons. All driveway aprons will be installed concurrently with individual site development and shall be commercial driveways of Portland cement concrete, six inches thick from curb to right-of-way line with a minimum width of 15 feet at the curb line for one-way traffic.

6. **UTILITIES.**

a. Undergrounding. All utility distribution and service lines including on-site extensions will be installed in underground locations.

b. Easements. Any necessary on-site easements shall remain free and clear of any obstacles that would interfere with necessary access and maintenance.

c. Fire Hydrants. Fire hydrants with steamer connections and mains will conform with the regulations of the applicable fire protection agency. Delivery from the system will be at least 4,000 gallons per minute for any one building site with 300 feet spacing between hydrants. Hydrants will be located behind the sidewalk position | street rights-of-way.

HEIGHT
MUST CONFORM
TO PART 77

7. **GRADING**. All grading shall comply with the County Grading Ordinance Gr Ordinance.

8. **BUILDING SETBACKS**. No building or structure shall at any time be erect maintained on any site between the Building Restriction Line as established b current Gillespie Field Airport Layout Plan and the centerline of the runway; with... 20 feet from any site boundary abutting any street. Interior side yard setback shall be zero feet or ten feet; provided, however, that a zero foot setback shall be subject to approval by the Airports Director.

TOO VAGUE

9. **HEIGHT LIMIT**. No building or structure shall exceed two stories or 35 feet in height, whichever is lesser; provided, however, that buildings or structures not exceeding 50 feet in height, which do not violate Federal Aviation Administration height restrictions, may be permitted subject to the following:

SHOULD
REFER
TO
PART 77

a. Buildings or structures located 100 feet or more from any site boundary line and not exceeding 50 feet in height may be permitted upon approval of the Airports Director.

b. Buildings or structures located less than 100 feet from any site boundary line may be permitted upon approval of the Airports Director.

10. **MULTIPLE-OCCUPANCY BUILDING**. Multiple-occupancy of buildings is permitted. In cases of multiple occupancy, off-street parking, off-street loading, outdoor trash facilities and on-site vehicular and pedestrian circulation systems must be shared in common; provided that separate such facilities and systems may be permitted by the Airports Director where justified and when such provision does not otherwise deviate from the specifics and intent of these development standards.

SHOULD
BE
FOR
PERMITTED
AVIATION
USES

11. **HEIGHT OF FENCES, WALLS AND PLANT MATERIALS**.

a. Fences and Walls. No decorative or screening fences or walls, including arrangements of plant materials so as to form an opaque screen shall exceed the following height limits above ground elevation:

- (1) Within any area of site exclusive of required setbacks - 10 feet.
- (2) Within required setback abutting a street - 42 inches except within five feet of the intersection of a driveway and a street, a driveway and a walkway, or a driveway and driveway or parking area circulation aisle, in which cases the height limit shall be 30 inches.
- (3) Within required interior side yards and rear yards - six feet.

b. Plant Materials. Except where used as an opaque screen, plant materials may be permitted at any height not in violation of Federal Aviation Administration

→ PROVISION SHOULD BE ADDED THAT ALL CONSTRUCTION MUST COMPLY WITH 14 CFR PART 77 AND RECEIVE FAA APPROVAL.

then County may notify Lessee in writing of said failure specifying in said notice the nature and extent of said failure. In the event Lessee fails to make said required maintenance, repairs or replacements within 30 days after such notice by County, County may accomplish maintenance or make such repair or replacement and the cost thereof including, but not limited to, the cost of labor, material and equipment shall be paid by Lessee to County within 10 days from receipt by Lessee of statement of costs from County.

19. **OTHER REGULATIONS.** In addition to the provisions of these Development Standards, all development in aviation areas shall conform to the standards specified by the applicable Federal Aviation Administration Regulations, laws of the State of California and the applicable local ordinances which regulate land use, construction and development. In the event of a conflict between these Development Standards and various applicable laws, ordinances and regulations, the most restrictive shall apply.

THERE SHOULD BE REFERENCE TO SAFETY AND SECURITY REQUIREMENTS= e.g.

RUNWAY SAFETY

PEDESTRIAN & VEHICLE DEVIATION AVOIDANCE

DRIVER TRAINING FOR THE AIRPORT OPERATIONS AREAS

ACCESS RESTRICTIONS IN SECURED AREAS.

OTHER
REGULATIONS
NEEDING
TO BE
LISTED

EXHIBIT "G"
PERMITTED USES OF THE PREMISES

Lessee shall use the Premises only for the purpose of conducting fixed-base operations. No other uses of whatever nature shall be permitted under the terms of this Lease.

a. The fixed-base operation may include any or all of the following uses:

COMMERCIAL ACTIVITIES
SHOULD BE LIMITED
TO ONLY THOSE WHICH
THE LESSEE ACTUALLY
WANTS TO PERFORM
sales.
AND FOR WHICH THE
OPERATOR IS QUALIFIED
TO PERFORM.

- (1) Aircraft storage hangars, "T" hangars, tie-down areas and buildings.
- (2) Automobile parking lots and structures.
- (3) Aviation flight and ground school, including pilot and student.
- (4) Aircraft sales, including radio and navigational equipment supplies and accessory equipment.
- (5) Aircraft hangar and tie-down rental.
- (6) Aircraft leasing, rental and charter.
- (7) Airframe, engine, radio, navigational and accessory equipment maintenance and modification.
- (8) Aircraft ground support equipment repair, maintenance and modification.
- (9) Aircraft cleaning services.
- (10) Aircraft painting, on condition that facilities conforming to fire, air pollution and environmental requirements are provided.
- (11) Aviation fuel facilities.
- (12) Aircraft and engine mechanic schools.
- (13) Air taxi and air ambulance services.
- (14) Aerial photography and surveying.
- (15) Office, retail and service uses related or ancillary to other uses permitted herein.
- (16) Identification, directional and safety signs.

Too
MAY
PERMITTED
USES

b. RESERVING TO COUNTY in each and every enumerated use, the right to provide to Airport users one or more of the services allowed by this Clause without the necessity of renegotiation of the terms and conditions of this Lease.

c. Permitted uses listed above notwithstanding, it is understood that with the exception of maintenance performed on the tenant-owned aircraft normally stored therein, the use of aircraft storage or "T" hangars shall be limited to aircraft storage only. No business, industrial, commercial or non-aviation use of any kind shall be permitted in "T" hangars or in any portion of "T" hangar buildings.

d. None of the uses enumerated in this Clause including, but not limited to

aircraft tie-down or storage, shall be permitted in or upon any area of the Premises that have not been improved with paving without the prior written consent of the Assistant Deputy Director - Aviation.

e. Notwithstanding the other terms and conditions of this Clause, County may, at County's sole option and discretion, allow non-aviation uses on the Premises. Such non-aviation use, if permitted by County, shall be restricted to the second or higher floors of buildings on the Premises. Failure of Lessee to secure County approval prior to occupancy of any portion of the Premises for such non-aviation use shall constitute a material breach of this Lease.

f. Non-compliance with the use restrictions in this Clause shall constitute a material breach of this Lease.

→ ~~Non-AVIATION~~ SHOULD NOT BE ALLOWED.

PROVISION FOR - NON-AVIATION USE SHOULD
BE OMITTED

ANY REFERENCE TO NON-AVIATION USE SHOULD
STATE ONLY THAT NON-AERONAUTICAL
USES OF THE LEASED PREMISES IS
SUBJECT TO A SURCHARGE IN RENT

PERMITTED
NON-AVIATION
USE SHOULD
BE SUBJECT TO
A SURCHARGE

HANGAR SUBLEASE (Triple Net)

(“Sublessor”)

and

(“Sublessee”)

EXHIBIT “T”

upon demand by Sublessor. The cost of all work performed by Sublessor under this Section shall be an element of Operating Expenses hereunder. Except as expressly otherwise provided in this Sublease, the parties intend that Sublessor shall have no obligation, in any manner whatsoever, to repair and maintain the Premises nor the equipment therein, all of which obligations are intended to be that of Sublessee. Sublessee waives the benefit of any statute now or hereinafter in effect which would otherwise afford Sublessee the right to make repairs at Sublessor's expense or to terminate this Sublease because of Sublessor's failure to keep the Premises in good order, condition and repair, including California Civil Code sections 1932, 1933, 1941 and 1942.

12.2 Sublessee's Obligation for Maintenance.

~~12.2.1 Good Order, Condition and Repair.~~ By accepting possession of the Premises, Sublessee acknowledges that the Premises are in good and sanitary order, condition and repair. Except as provided in Section 12.1 hereof, Sublessee at its sole cost and expense shall keep and maintain in good and sanitary order, condition and repair the Premises and the Building and every part thereof including all repairs, replacements, renewals and restorations, ordinary and extraordinary, foreseen and unforeseen, as required.

12.2.2 Sublessor's Remedy. Should Sublessee, after notice from Sublessor, fail to make or perform promptly any repairs or maintenance which are the obligation of Sublessee hereunder, Sublessor shall have the right, but shall not be required, to enter the Premises and make the repairs or perform the maintenance necessary to restore the Premises to good and sanitary order, condition and repair. Immediately on demand from Sublessor, the cost of such repairs shall be due and payable by Sublessee to Sublessor as additional rent due under this Sublease.

12.2.3 Condition Upon Surrender. At the Expiration Date or earlier termination of this Sublease, Sublessee shall surrender the Premises, including the Building and any additions, alterations and improvements thereto, broom clean, in good sanitary order, condition and repair, ordinary wear and tear excepted, after first removing all goods and effects of Sublessee, and fixtures and items required to be removed or specified to be removed at Sublessor's election pursuant to Sublease, and repairing any damage caused by such removal. Sublessee shall not have the right to remove fixtures or equipment if Sublessee is in default hereunder unless Sublessor specifically waives its provision in writing.

NOTHING
STATED
ABOUT
RESIDENTIAL
USE.

NOTHING STATED ABOUT RESIDENTIAL
USE...

13 USE OF PREMISES.

13.1 Permitted Use. Sublessee shall use the Premises for (1) an aircraft hangar or (2) other aircraft or aviation uses subject to (i) Sublessor's prior written consent (which shall not be unreasonably withheld) and (ii) to the extent required under the Master Lease, County's prior written consent. Sublessee acknowledges that County will not allow any activity in the Premises which is not aircraft or aviation related. Sublessee acknowledges that, as a condition to providing consent to use of the Premises for purposes other than a private aircraft hangar, County may impose various fees and charges, all of which shall be timely and fully paid by Sublessee.

- (8) Aircraft painting.
- (9) Aviation fuel facilities.
- (10) Aircraft and engine mechanic schools.
- (11) Airlines, scheduled and non-scheduled.
- (12) Air taxi and air ambulance services.
- (13) Air freight terminals and trans-shipment facilities.
- (14) Aerial crop dusting and spraying enterprises.
- (15) Aerial fire fighting.
- (16) Aerial photography and surveying.
- (17) Parachute rigging sales and service.

c. Other Uses. Office, retail, and service uses related or ancillary to other uses permitted under sub-clauses a and b above; or which are normally operated for the convenience of the employees of such other uses.

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